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APR 26 2010  
Federal Communications Commission  
Office of the Secretary

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION  
242 State Street  
State House Station 18  
Augusta, Maine 04333  
(207) 289-3831

*WC 10-181*

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August 13, 1984

AUG 23 1984

Mr. William J. Tricarico, Secretary  
Federal Communications Commission  
1919 "M" Street N.W.  
Washington, D.C. 20554

ENFORCEMENT DIVISION

Re: Certification of CATV Pole Attachment Jurisdiction by  
Maine Public Utilities Commission

Dear Mr. Tricarico:

Please accept this letter as certification pursuant to 47 U.S.C.A. §224(c) that the State of Maine through the Maine Public Utilities Commission has assumed jurisdiction over the regulation of the rates, terms, and conditions of pole attachments by cable television systems. Pursuant to Section 6 of Chapter 802 of the Public Laws of 1983, An Act Regarding Franchising and Regulation of Cable Television Systems (effective July 25, 1984), the Maine Public Utilities Commission regulates the rates, terms, and conditions of pole attachments, when "public utilities or cable television system have failed to agree upon such use or the terms and conditions or compensation for the same...." (A copy of Ch. 802 is attached.)

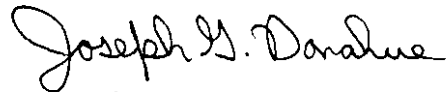
This legislation also provides, "Any action taken or orders issued by the commission under this section shall take into account the interests of the subscribers of the affected cable television system, as well as the customers of the affected public utilities." Accordingly, the Maine Public Utilities Commission also certifies that in so regulating pole attachments, "the State has the authority to consider and does consider the interests of the subscribers of cable television services, as well as the interests of utility services." 47 U.S.C.A. §224(c)(2)(B).

The purpose and effect of Ch. 802 is to regain the State of Maine's jurisdiction over pole attachment by cable television

systems. Upon receipt of this certification by the Federal Communications Commission, we assume that the Maine Public Utilities Commission may commence to exercise this jurisdiction.

If you require any additional information, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Joseph G. Donahue".

Joseph G. Donahue  
General Counsel

JGD/pjw  
Enclosure

Expendable surplus: In addition to surplus deposited and thereafter to be maintained as shown in columns (G) or (H), the insurer when first authorized must have on hand surplus funds, which it can thereafter expend in the conduct of its business, in amount not less than 50% of the applicable deposited and maintained surplus required of it under the schedule set up in this subsection.

Notwithstanding the requirements for expendable surplus otherwise required by this section for newly organized insurance companies seeking a certificate of authority in this State, any such insurer may transact legal services insurance, to the extent provided for in chapter 38, without additional expendable funds, if the corporation is otherwise qualified for a certificate of authority to transact the business of health, life and health or multiple lines insurance, and possesses and thereafter maintains, in addition to the amounts enumerated in the table in this subsection, an additional amount of unimpaired basic surplus of not less than \$500,000.

Approved April 20, 1984.

## CABLE TELEVISION—FRANCHISING AND REGULATION

### CHAPTER 802

S.P. 903 - L.D. 2423

#### AN ACT Regarding Franchising and Regulation of Cable Television Systems.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 30 MRSA §2151, sub-§2, ¶H, as amended by PL 1975, c. 623, §45-C, is repealed.

Sec. 2. 30 MRSA §2151, sub-§2, ¶I, as enacted by PL 1973, c. 676, §3, is repealed.

Sec. 3. 30 MRSA §2151, sub-§2, ¶J, as enacted by PL 1981, c. 308, is repealed.

Sec. 4. 30 MRSA §2151, sub-§2, ¶L is enacted to read:

Changes or additions in text are indicated by underline; deletions by ~~strikeouts~~

L. Governing cable television, as provided in section 2158.

Sec. 5. 30 MRSA §2158 is enacted to read:

§2158. Cable television

1. State policy. It is the policy of this State, with respect to cable television:

A. To affirm the importance of municipal control of franchising and regulation in order to assure that the needs and interests of local citizens are adequately met;

B. That each municipality, when acting to displace competition with regulation in the area of cable television, shall proceed according to the judgment of the municipal officers as to the type and degree of regulatory activity deemed to be in the best interests of its citizens; and

C. To provide adequate statutory authority to municipalities to make franchising and regulatory decisions to implement this policy and to avoid the costs and uncertainty of lawsuits challenging that authority.

2. Ordinances. A municipality may enact any ordinances, not contrary to this chapter, governing franchising and regulation of cable television systems using public ways. Systems located in accordance with those ordinances, franchises and regulations are not defects in public ways.

The municipal officers of towns shall have exclusive power to enact all ordinances authorized by this section. Seven days' notice of the meeting at which those ordinances are to be proposed shall be given in the manner provided for town meetings and those ordinances shall be effective immediately.

3. General requirements. The following requirements apply generally to cable television systems governed by this section.

A. Any cable television system shall be constructed and operated in accordance with Federal Communications Commission regulations.

B. No cable television company, notwithstanding any provision in a franchise, may abandon service or portion thereof without having given 6 months'

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prior written notice to the franchising municipality, if any, and to the municipalities affected by that abandonment. When abandonment of any service is prohibited by a municipal franchise, no cable television company may abandon that service without written consent of the municipal officers. Any cable television company which violates this paragraph shall be subject to a fine of \$50 a day for each day that the violation continues.

C. Neither the cable television company whose facilities are used to transmit a program produced by a person other than the cable television company, pursuant to Federal Communications Commission regulations or municipal ordinance, nor the officers, directors or employees of any such cable television company shall be liable for damages arising from any obscene or defamatory statements or actions or invasion of privacy occurring during any program when that company does not originate or produce the program.

D. Notwithstanding any other provisions of this chapter, any permit to provide a cable television system issued prior to July 1, 1965, without a fixed termination date, shall be deemed to expire on September 18, 1996, unless an earlier expiration date is mutually agreed upon by the municipality and the permit holder. These cable television systems, as a condition of franchise, shall be operated in such a manner as to provide a safe, adequate and reliable service to subscribers.

E. A municipality shall be entitled to injunctive relief in addition to any other remedies available by law to protect any rights conferred upon the municipality by this section or any ordinances enacted under this section.

4. Franchise procedures. Pursuant to subsection 2, a municipality may enact ordinances governing the procedures for granting cable television franchises. These ordinances must be enacted prior to granting any such franchise or franchises and shall be designed to assure that the terms and conditions of a franchise will adequately protect the needs and interests of the municipality. The ordinances shall include, but are not limited to, provisions for the following:

A. A mechanism for determining special local needs or interests before issuance of a request for proposals, whether by actively seeking to determine those needs or interests, or by allowing a period for public comment on a proposed request for proposals;

B. The filing of franchise applications and related documents as public records, with reasonable notice to the public that the records are open to inspection during reasonable hours;

C. A reasonable opportunity for public input prior to granting franchises; and

D. The assessment of reasonable fees to defray the costs of public notice, advertising and other expenses incurred by the municipality in acting upon applications.

5. Franchise agreements or contracts. The State specifically authorizes municipal officers pursuant to ordinances to contract on such terms and conditions and impose such fees as are in the best interests of the municipality, including the grant of exclusive or nonexclusive franchises for a period not to exceed 15 years, for the placing and maintenance of cable television systems and appurtenances, or parts thereof, along public ways and including contracts with cable television companies which receive the services of television signal transmission offered by any public utilities using public ways for such transmission. No public utility may be required to contract with the municipal officers pursuant to this subsection. Each franchise shall contain the following provisions:

A. The area or areas to be served;

B. A line extension policy;

C. A provision for renewal, the term of which shall not exceed 15 years;

D. Procedures for the investigation and resolution of complaints by the cable television company; and

E. Such other terms and conditions which are in the best interests of the municipality.

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6. Current ordinances and agreements. This section shall not be construed to invalidate any ordinance, franchise or agreement in effect or under consideration on the effective date of this section.

Sec. 6. 35 MRSA §256 is amended to read:

§256. Joint use of equipment

Whenever the commission, after a hearing had upon its own motion or upon complaint of a public utility or cable television system affected, shall find that public convenience and necessity require the use by one public utility or cable television system of the conduits, subways, tracks, wires, poles, pipes or other equipment, or any part thereof, on, over or under any street or highway and belonging to another public utility or cable television system, and that such use will not result in irreparable injury to the owner or other users of such conduits, subways, tracks, wires, poles, pipes or other equipment or in any substantial detriment to the service, and that such public utilities or cable television system have failed to agree upon such use or the terms and conditions or compensation for the same, the commission may by order direct that such use be permitted and prescribe a reasonable compensation and reasonable terms and conditions for the joint use. If such use be directed, the public utility or cable television system to whom the use is permitted shall be liable to the owner or other users of such conduits, subways, tracks, wires, poles, pipes or other equipment for such damage as may result therefrom to the property of such owner or other users thereof. Any actions taken or orders issued by the commission under this section shall take into account the interests of the subscribers of the affected cable television system, as well as the customers of the affected public utilities.

Sec. 7. 35 MRSA §2362 is enacted to read:

§2362. Public Utilities Commission regulation

Cable television companies, to the extent they offer services like those of telephone companies subject to regulation by the Public Utilities Commission, shall be subject to the commission's jurisdiction over rates, charges and practices, as provided in this Title.

Approved April 20, 1984.

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